

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DB, A MINOR, BY HIS NEXT FRIEND AND  
MOTHER, ELIZABETH B.,

Plaintiffs,

v.

SUTTON SCHOOL DISTRICT, SUTTON  
SCHOOL COMMITTEE AND  
MASSACHUSETTS DEPARTMENT OF  
ELEMENTARY AND SECONDARY  
EDUCATION,

Defendants.

CIVIL ACTION  
NO. 1:10-cv-10897 (FDS)

PLAINTIFFS' REQUEST FOR AWARD OF REASONABLE ATTORNEY'S FEES AND  
COSTS AND REIMBURSEMENT AS AWARDED BY THE HEARING OFFICER

Now come Plaintiffs and move this Honorable Court for an award of attorney's fees as to that part of the Hearing Officer's decision whereby Parents were prevailing parties, and for reimbursement per the Hearing Officer's decision in BSEA 09-7983 as affirmed by the 4/30/13 Judgment of this Court, as set forth in greater detail below.

Plaintiffs move, pursuant to 20 U.S.C. §1415(i)(3)(B), which states: "In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs— (I) to a prevailing party who is the parent of a child with a disability ", (emphasis added), for an award of attorney's fees in this matter. Plaintiffs also move, pursuant to the 4/30/13 Judgment of this Court affirming the decision of the Hearing Officer in BSEA no. 09-7983, for reimbursement of services and expenses expended in providing an education to D.B. with respect to tutoring costs, occupational therapy costs, and

enumerated toileting instruction costs.<sup>1</sup> This reimbursement includes academic tutoring services provided by Rebecca Ronstadt and Yasmeen Bressner, Occupational Therapy services provided by Project Child, travel required to provide these services, and toileting services provided by Gregory Paquette of ICCD. BSEA Hearing Decision 09-7983 at pp. 39-41. The Hearing Officer's decision issued on 1/26/10. Rather than complying with the Hearing Officer's order of Reimbursement, Sutton challenged and appealed that Decision and Order, which challenge and appeal this Court has found to be without merit. Accordingly, Plaintiffs move this Honorable Court to allocate interest as to the reimbursement from the date of the Hearing Officer's order, or 1/26/10. Insofar as Sutton chose to appeal the Hearing Officer's opinion and did not prevail, plaintiffs' attorney's fees incurred in defense against this appeal are also sought.

This Court affirmed the decision of the Hearing Officer awarding reimbursement for services and expenses incurred by Parents. The IDEA specifically enumerates attorney's fees to prevailing Parents as "costs". To deny Parents' attorney fee petition would be contrary to the Hearing Officer's decision and the Court's order affirmation of that decision.

Reimbursement, as supported by the attached Exhibits A-1 to A-4 is:

- |     |                               |   |
|-----|-------------------------------|---|
| (A) | Rebecca Ronstadt Tutoring:    | \$16,345.00   |
|     | Travel (Sutton to Lexington): | \$ 9,852.30 (31 days x 90 miles RT at .485 x 90 (2007 rate); (187 days x 90 miles RT at .505 (2008 rate)) |
| (B) | Yasmeen Bressner Tutoring:    | \$ 1,720.00   |
|     | Travel (Sutton to Lexington): | \$ 990.90 (22 x 90 miles RT x .505)   |

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<sup>1</sup>"Sutton shall reimburse Parents for all out-of-pocket expenses relative to their privately providing academic tutoring services to Student from 10/25/07 through 10/26/08. Sutton shall reimburse Parents for all out-of-pocket expenses relative to their privately providing occupational therapy services to Student from 10/25/07 through 10/26/08. Sutton shall reimburse Parents for all out-of-pocket expenses relative to their consultation sessions with Gregory Paquette during the time period from 10/27/08 to 10/26/09." BSEA Decision 09-7983 at p. 44.

(C)	Project Child Occupational Therapy (10/25/07-10/26/08)	\$2,395.00
	Travel (Lexington to Beverly):	\$1,365.00 (51 days x 53 miles RT x .505)
(D)	Gregory Paquette:	\$ 400.00
Total		\$33,068.20

Attorney's fees, as supported by the attached Affidavit at Exhibit B, are: \$50,406.00.

Plaintiffs, by their attorney,

/s/ David R. Bohanan

David R. Bohanan  
BBO # 556401  
P.O. Box 562  
286 Boston Road  
Sutton, MA 01590  
(774) 641-1767

5/28/13

#### CERTIFICATE OF SERVICE

I, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 28<sup>th</sup> day of May, 2013.

/s/ David R. Bohanan

David R. Bohanan